

MONTANA LEGISLATIVE HISTORY

Chapter 270 1993

Bill H 502 S _____

Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) 2-11 ✓ C

2-13 ✓ C

_____ C

_____ C

Date Out _____ C

S. Committee on Judiciary

Hearing Date(s) 3-8 ✓ C

_____ C

_____ C

_____ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

4/07 SIGNED BY SPEAKER
 4/08 SIGNED BY PRESIDENT
 4/13 TRANSMITTED TO GOVERNOR
 4/16 SIGNED BY GOVERNOR
 CHAPTER NUMBER 357
 EFFECTIVE DATE: 10/01/93

HB 501 INTRODUCED BY MERCER, ET AL.
 REQUIRE EXPENDITURE ANALYSIS TO BE BASED ON PREVIOUS LEVEL OF
 APPROPRIATION

2/05 INTRODUCED
 2/05 REFERRED TO APPROPRIATIONS
 2/05 FIRST READING
 3/05 HEARING
 3/26 MISSED TRANSMITTAL DEADLINE

HB 502 INTRODUCED BY BARNETT
 REVISE BAIL FORFEITURE AND REQUIRE RETURN OF BOND WITHIN 30
 DAYS OF CONVICTION

2/05	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/11	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/19	2ND READING PASSED	94	2
2/22	3RD READING PASSED	94	4
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO JUDICIARY		
3/08	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/09	2ND READING CONCURRED	48	0
3/10	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/24	SIGNED BY PRESIDENT		
4/02	TRANSMITTED TO GOVERNOR		
4/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 270		
	EFFECTIVE DATE: 10/01/93		

HB 503 INTRODUCED BY REAM, ET AL.
 AMEND DEFINITION OF TIMBER SALE IN STREAMSIDE MANAGEMENT
 ZONE LAWS

2/05	INTRODUCED		
2/05	REFERRED TO NATURAL RESOURCES		
2/05	FIRST READING		
2/15	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	94	4
2/23	3RD READING PASSED	97	2
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO NATURAL RESOURCES		
3/22	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	37	9

HOUSE BILL NO. 502
INTRODUCED BY BARNETT

IN THE HOUSE

FEBRUARY 5, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 17, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 18, 1993	PRINTING REPORT.
FEBRUARY 19, 1993	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.
FEBRUARY 22, 1993	THIRD READING, PASSED. AYES, 94; NOES, 4.
FEBRUARY 23, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 8, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1993	SECOND READING, CONCURRED IN.
MARCH 10, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 502
2 INTRODUCED BY Barnett
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE RETURN OF
5 A BAIL BOND TO THE SURETY WITHIN 30 DAYS AFTER A CONVICTION;
6 PROVIDING THAT BAIL FORFEITURE BE DISCHARGED IF THE
7 DEFENDANT APPEARS AND SATISFACTORILY EXCUSES AN ABSENCE
8 WITHIN 90 DAYS AFTER THE FORFEITURE; AND AMENDING SECTION
9 46-9-503, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Return of bail bond after
13 conviction. If a commercial surety bond is posted as bail
14 and the defendant is convicted, the bond must be returned to
15 the surety within 30 days after the conviction. If the
16 defendant appeals, the court may order that bail be provided
17 during the appeal.

18 **Section 2.** Section 46-9-503, MCA, is amended to read:

19 "46-9-503. Violation of release condition --
20 forfeiture. (1) If a defendant violates a condition of
21 release, including failure to appear, the prosecutor may
22 make a written motion to the court for revocation of the
23 order of release. A judge may issue a warrant for the arrest
24 of a defendant charged with violating a condition of
25 release. Upon arrest, the defendant must be brought before a

1 judge in accordance with 46-7-101.

2 (2) If a defendant fails to appear before a court as
3 required and bail has been posted, the judge may declare the
4 bail forfeited. Notice of the order of forfeiture must be
5 mailed to the defendant and the defendant's sureties at
6 their last-known address.

7 (3) If at any time within 30 days after the forfeiture
8 the--defendant--or the defendant's sureties appear and
9 satisfactorily excuse the defendant's failure to appear, the
10 judge may direct the forfeiture to be discharged upon terms
11 as may be just. If at any time within 90 days after the
12 forfeiture the defendant appears and satisfactorily excuses
13 the defendant's failure to appear, the judge shall direct
14 the forfeiture to be discharged upon terms as may be just."

15 NEW SECTION. Section 3. Codification instruction.
16 [Section 1] is intended to be codified as an integral part
17 of Title 46, chapter 9, part 1, and the provisions of Title
18 46 apply to [section 1].

-End-

COMMITTEE--HOUSE JUDICIARY

Page 5

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0433	ELLIS, JR., ALVIN	CLARIFY TYPES OF ANIMALS IN RACES CONDUCTED BY BARS -- SPORTS POOLS ON RACES	2/02	2/10	PASS AS AMENDED	2/13	VOTE: 11-6	2/17
HB0466	MILLS, NORM	LIMIT BROKER LIABILITY FOR ASSOCIATE	2/04	2/11	TABLED ON	02/16	VOTE: 11-6	
HB0468	RICE, JIM	PREFERENCE FOR COMMITMENT TO DEPT. CORRECTIONS, NOT STATE PRISON	2/04	2/11	DO PASS	2/11	VOTE: 16-1	2/15
HB0482	BOHLINGER, JOHN	CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; SUSPENSION OF STATE LICENSES	2/05	2/12	PASS AS AMENDED	2/15	VOTE: 12-6	2/17
HB0483	TOOLE, HOWARD	REQUIRE MORE THAN ONE DUI TEST, UNLESS 1ST TEST IS FOR ALCOHOL & IS FAILED	2/05	2/11	PASS AS AMENDED	2/13	VOTE: 13-4	2/17
HB0487	BRANDEWIE, RAY	CONST. AMEND. TO ALLOW LEGISLATURE TO SET CRITERIA FOR WORK COMP BENEFITS	2/13	2/17	PASS AS AMENDED	2/18	VOTE: 13-4	2/19
HB0496	WYATT, DIANA	REVISE THE MONTANA HUMAN RIGHTS LAWS	2/05	2/12	PASS AS AMENDED	2/18	VOTE: 10-8	2/15
HB0499	COBB, JOHN	REVISE BOARD OF BAR EXAMINERS	2/05	2/12	DO PASS	2/12	VOTE: 17-0	2/15
HB0502	BARNETT, JOE	REVISE BAIL FORFEITURE & REQUIRE RETURN OF BOND WITHIN 30 DAYS OF CONVICTION	2/05	2/11	PASS AS AMENDED	2/13	VOTE: 17-1	2/17
HB0506	TASH, BILL	ALLOW NONPROFIT RAFFLE FOR LAND WORTH MORE THAN \$5,000	2/06	2/16	DO PASS	2/16	VOTE: 17-1	2/17
HB0507	SAYLES, TIM	CREATE OFFENSE OF ASSAULT ON A SPORTS OFFICIAL	2/06	2/16	PASS AS AMENDED	2/18	VOTE: 10-8	2/19
HB0518	WHALEN, TIM	PROHIBIT POLITICAL USE OF HEALTH CARE INFORMATION	2/08	2/16	PASS AS AMENDED	2/18	VOTE: 17-1	2/19

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN RUSSELL FAGG**, on February 11, 1993,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Angela Russell

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 15, HB 502, HB 466, HB 429, HB 483,
HB 468
Executive Action: HB 468, HB 429, HB 483

HEARING ON SB 15

Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, Senate District 43, Laurel, said that there
has been an ongoing dispute between school boards and teachers.

grievance procedure is put in a contract, it normally starts out with some guidelines, then it first goes to the principal, then to the superintendent, and last to the school board. When it goes to the school board, it's determined by contract. If a contract has bargaining arbitration, the teacher can go to either the county superintendent or an arbitrator. In some cases the union has agreed with contract language, "The school board has the final decision."

Closing by Sponsor:

SEN. BLAYLOCK closed by stating that SB 15 is a matter of fairness. He has been a teacher in class A, B, and C school districts. Teachers worked hard to get the first teachers negotiation act through, and the Montana School Board Association did not want to negotiate at all. SEN. BLAYLOCK believes this is a further step along the road of bringing these two groups together to get this issue resolved.

HEARING ON HB 502

Opening Statement by Sponsor:

REP. JOE BARNETT, House District 76, Belgrade, offered amendments and spoke to HB 502. He sponsored this bill at the request of the bail bond industry. The bond team provides a service to the state of Montana and to the local communities and gives an opportunity for those who are facing trial an opportunity to go back into the community. REP. BARNETT said he is concerned for the people providing the bonds because they get tied up in the appeal process, and it puts a burden upon them. EXHIBIT 2

Proponents' Testimony:

Jack Young, representing Valley Bail Bonds, Belgrade and other Montana Bail Bond persons, presented written testimony. EXHIBIT 3

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. RANDY VOGEL asked REP. BARNETT to briefly summarize the problems that created this bill. REP. BARNETT believes there were two problems. One is that after a defendant is brought to trial and is convicted, he/she many times is released waiting for final conviction. That is the time at which the person is most apt to jump bail, and it puts bail bond people in jeopardy. The other problem is that the defendant has skipped out of court, and

the bond people do not know this, and they want to shorten that time between trial and sentencing so that they can get right on the person while they still have the time to contact him.

CHAIRMAN FAGG said he interprets page 2, line 14 that if someone jumped bail, shows up in court, is satisfactorily excused, that the bond will be not forfeited. He asked REP. BARNETT the purpose behind page 2, lines 11-14. REP. BARNETT said that at this particular point, the person has jumped bail. The bail could be forfeited to the court, but within 90 days if they're able to trace that person down and return them and back to court, then the defendant appears as intended.

REP. JODY BIRD referred to page 1, lines 16-17, "defendant appeals, the court may order that bail be provided during the appeal," and asked REP. BARNETT his reasoning behind this sentence. REP. BARNETT spoke to Mr. MacMaster about this particular area. It means that once a person has been brought to trial and is convicted, the bond should be returned (this is line 14 previous). But if the defendant appeals that sentencing, the court may order that a bail be provided during the time of appeal. The way it currently stands, if that bond does go all the way through to the final conviction during that paying process, the bond money is tied up.

REP. BIRD asked what happens when a defendant loses the appeal. REP. BARNETT said on the first conviction, the bond is released. If there is an appeal, then a new bond would have to be provided, or the person would have to be incarcerated until the fine is paid.

CHAIRMAN FAGG expressed his concern about what this is going to do to the courts. He believes the court system has a fairly significant problem right now, holding people and making sure they meet their bond requirements. He asked REP. BARNETT if he would consider taking out lines 11-14 on page 2 and going with the rest of the bill. REP. BARNETT said if that language is taken out, they would revert back to the 30 days. It does, however, put more burden on the bond server to trace the person who skipped out of paying the bond.

Closing by Sponsor: No closing.

HEARING ON HB 466

Opening Statement by Sponsor:

REP. NORM MILLS, House District 90, Billings, spoke to this bill which limits the responsibility of a broker owner of a real estate firm. He defined broker/owner and broker/associate as they are considered in the bill.

Amendments to House Bill No. 502
First Reading Copy

Requested by Rep. Barnett
For the Committee on the Judiciary

Prepared by John MacMaster
February 10, 1993

1. Page 1, line 14.

Following: "must be"

Insert: "released and"

2. Page 2, line 6.

Following: "address"

Insert: "within 10 working days or the bond becomes void and must
be released and returned to the surety within 5 working
days"

TESTIMONY

HB 502 Bail Bond Amendments
Introduced by Rep Joe Barnett
Hearing February 11, 1993

SPEAKER: Jack Young
Representing Valley Bail Bonds, Belgrade
and other Montana Bail Bond persons

WE SUPPORT HB 502 BAIL BOND AMENDMENTS FOR THE FOLLOWING REASONS:

- (1) PROPOSE: THE BOND BE EXONERATED AT TIME OF CONVICTION. By this time a Bond has been in force six months to a year. Once the defendant has made all appearances until conviction or plea of guilt, the Bond has performed its function and should be exonerated. If the defendant appeals, a new Bond may be written for the appeal process as it is a whole new undertaking. Under the present statutes, Judges may hold bonds through appeal, pre-sentence investigation which can take two years or more creating a great financial burden for the person holding the Bond.
- (2) PROPOSE: A CHANGE FROM 30 DAYS TO 90 DAYS FOR RECOVERY OF DEFENDANT: This would give the bond agent additional time to recover the defendant. Many defendants under Bond move around frequently. The more time the bond agent has to recover the defendant, the better the chances of returning defendant to custody; thus, justice is better served. Failure to return the defendant within specified time costs the Bond agent. The State of Idaho recently extended recovery time to ninety days.
- (3) PROPOSE: TEN WORKING DAY NOTIFICATION OF FORFEITURE OF BOND: This prompts courts to notify bonding agent immediately when a defendant fails to make a court appearance. Courts in the past have waited two months to send notice of non-appearance. This gives a "bail jumper" a costly head start on the bonding agent's attempt to apprehend.

BOND AGENTS ARE AN ESSENTIAL SPOKE IN THE WHEEL OF JUSTICE. THEY KEEP JAIL POPULATIONS DOWN TO A MANAGABLE LEVEL. THEY SAVE MONTANA TAXPAYERS CONSIDERABLE SUMS OF MONEY BY RETURNING DEFENDANTS TO THEIR FAMILIES AND JOBS RATHER THAN THE COST OF INCARCERATION AND MANY TIMES RESULTING MEDICAL COSTS TO BE BORNE BY THE TAXPAYERS. BOND AGENTS ALSO SAVE THE STATE TIME AND MONEY, LAW ENFORCEMENT INVESTIGATION TIME AND EXTRADITION COSTS BECAUSE OF THEIR PROVEN ABILITY TO LOCATE AND APPREHEND "BAIL JUMPERS".

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Judiciary COMMITTEE BILL NO. HB 502
DATE Feb. 11, 1993 SPONSOR(S) Barnett
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jack Young 504 IDAHO ST BELGRADE	VALLEY BAIL BONDS	✓	
SCOTT RESTVOLD 356 TOPAZ - BELGRADE	VALLEY BAIL BONDS	✓	
Gene D. Senne 201 West Broadway, Missoula Don Rupnow	Air Denver Bail Bonds	✓	
216 Rivermain SE Ht. Falls	E-Z Bail Bonding	✓	
Withersen Ruppman 216 Rivermain SE Ht Falls	E-Z Bail Bonding	✓	
EARL ROWE 204 N. TRAVIS, MISSOULA	THE BONDSMAN	✓	
CRANK L. HORRE 701 PURSE, HELENA	MONTANA MAGISTRATES ASSN		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on February 13, 1993,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Vivian Brooke (D)
Rep. Dave Brown (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Angela Russell

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: No Hearings Scheduled
Executive Action: HB 433, HB 502, HB 370, HB 483, HB 416

EXECUTIVE ACTION ON HB 433

Motion: REP. DAVE BROWN MOVED HB 433 DO PASS.

Motion/Vote: REP. BROWN moved an amendment. See Standing
Committee Report attached. Motion carried unanimously 17-0.
REP. RUSSELL was excused from this hearing.

Discussion:

CHAIRMAN FAGG proposed a concept amendment. He said he knows this particular business, and the proprietor doesn't collect any money from the situation for himself; 50% goes into a scholarship program or a charitable organization and the other 50% goes to participants or winners. The concept amendment is limited to situations where at least 50% of the money goes to a scholarship or charity organization and up to 50% goes to the participants, and the owner gets zero percent of the money.

REP. ALVIN ELLIS stated he is not opposed to that amendment providing the owner can take 15% for administrative costs.

REP. BROWN reiterated that the statute says 15 percent and is used for costs directly related to conducting the game, for example, administrative costs.

CHAIRMAN FAGG did not move the amendment. He doesn't like to expand on gambling and thinks this bill does that.

Motion/Vote: REP. BROWN MOVED HB 433 DO PASS AS AMENDED. Motion carried 11-6. Those voting for the bill were REPS. BROWN, BIRD, BROOKE, McCULLOCH, RICE, SMITH, TASH, TOOLE, WHALEN, WINSLOW and WYATT. Those voting against the bill as amended were CHAIRMAN FAGG, REPS. VOGEL BERGMAN, CLARK, GRIMES, and SAYLES.

EXECUTIVE ACTION ON HB 502

Motion: REP. BROWN MOVED HB 502 DO PASS.

Motion: CHAIRMAN FAGG moved an amendment to strike section 2 from the bill. He said he is opposed to that section because giving a person 90 days to come back after he jumps bond encourages jumping bond. CHAIRMAN FAGG said that when someone jumps bond on the county attorney's side, the punishment can be severe. In essence, striking section 2 means that current language will remain the same; all of that language in section 2, up until the underlined language, is current law.

REP. WHALEN asked CHAIRMAN FAGG whether the court would still have the power to hold that individual in contempt if he doesn't show up in court to pay his bond. CHAIRMAN FAGG concurred.

Vote: CHAIRMAN FAGG's amendment to strike section 2 from the bill. The motion failed 10-6. Those voting for the amendment were CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, RICE, WINSLOW and WYATT. Those voting against the amendment were REPS. BROWN, BIRD, CLARK, GRIMES, McCULLOCH, SAYLES, SMITH, TASH, TOOLE and WHALEN. REPS. BROOKE and RUSSELL were excused from voting.

Motion/Vote REP. LIZ SMITH moved amendments proposed by REP. BARNETT. See Standing Committee Report. Motion carried

unanimously 18-0.

Motion/Vote: REP. BROWN MOVED HB 502 DO PASS AS AMENDED. Motion carried 17-1 with REP. WINSLOW voting no.

EXECUTIVE ACTION ON HB 370

Motion: CHAIRMAN FAGG moved REP. MOLNAR'S amendment.

Motion: REP. WHALEN offered a substitute motion to adopt all the amendments with exception to the last amendment. He also asked that the amendments be segregated. CHAIRMAN FAGG confirmed that the committee will vote on the amendments separately and will vote on the last amendment last.

Vote: The question was called on REP. MOLNAR'S amendments excluding the declaratory judgement amendment. First set of amendments passed unanimously 18-0.

Vote: Question was called on the Declaratory Judgement amendment. Amendment failed 15-3. Those voting for the amendment were CHAIRMAN FAGG, REPS. BERGMAN and CLARK.

Motion: REP. RICE offered an amendment to strike subparagraph (c), page 3, lines 15-18 from the bill.

Discussion:

REP. RICE said he believes that bringing in physicians who may or may not be doing a good job someplace else and giving them a license to practice in rural Montana with complete immunity is an incentive program based upon tax benefits but not liability.

REP. BROWN said this section implies taking a good doctor, one who is capable of obstetrics and surgery, and putting him/her in a rural setting. This bill, in its present form, gives complete liability from anything a doctor should do in his practice. It also says that the doctor is completely protected from whatever happens to patients.

Motion: REP. BROWN MOVED HB 370 BE TABLED.

REP. ELLEN BERGMAN commented that most of the rural doctors should only prescribe medication, i.e. antibiotics; some may practice obstetrics, but should not be allowed to do surgery.

REP. SMITH, related having been a rural Montanan, contended the rural areas have attracted physicians that urban areas didn't want. She said she is concerned about consumer protection.

REP. BROWN pointed out that on page 3, lines 9 and 10, there is an unconstitutional exemption and retirement fund. This can be applied specifically to one segment and not to an entire class.

HOUSE STANDING COMMITTEE REPORT

February 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 502 (first reading copy -- white) do pass as amended.

Signed: _____
Russ Fagg, Chair

And, that such amendments read:

1. Page 1, line 14.

Following: "must be"

Insert: "released and"

2. Page 2, line 6.

Following: "address"

Insert: "within 10 working days or the bond becomes void and must be released and returned to the surety within 5 working days"

Committee Vote:

Yes 17, No 1.

371553SC.Hss

COMMITTEE--SENATE JUDICIARY

Page 4

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ----- DATE READ

HB0405	FISHER, MARJORIE	2/20	3/03	3/12	CREATE CRIMINAL OFFENSE OF RITUAL ABUSE OF A MINOR	CONCUR AS AMENDED 3-27	3/30
HB0409	PAVLOVICH, BOB	2/16	3/08		SET REQUIREMENTS NECESSARY TO WAIVE INDIGENTS' FILING FEES IN COURT ACTIONS	CONCUR AS AMENDED 3-15	3/15
HB0411	JOHNSON, ROYAL	2/22	3/17		DEPT. OF JUSTICE SUBSTANTIVE CHANGES TO GAMBLING LAWS	CONCUR 3-26	3/27
HB0416	STRIZICH, BILL	3/01	3/16		REQUIRE REPORTING OF HATE CRIMES	CONCUR AS AMENDED 3-26	3/30
HB0429	STRIZICH, BILL	2/20	3/05	3/08	MAKE MANUFACTURE OF DANGEROUS DRUGS A SEPARATE OFFENSE; RAISE PENALTY	CONCUR AS AMENDED 3-17	3/18
HB0468	RICE, JIM	2/20	3/15		PREFERENCE FOR COMMITMENT TO DEPT. CORRECTIONS, NOT STATE PRISON	CONCUR AS AMENDED 3-26	3/29
HB0474	PETERSON, MARY LOU	3/18	3/25		REQUIRE COUNTY ATTORNEY FUNDING IN BUDGET PROCESS	CONCUR 3-26	3/27
HB0482	BOHLINGER, JOHN	3/18	3/25		CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; SUSPENSION OF STATE LICENSES	CONCUR AS AMENDED 3-27	3/30
HB0496	WYATT, DIANA	2/20	3/12		REVISE THE MONTANA HUMAN RIGHTS LAWS	CONCUR AS AMENDED 3-15	3/15
HB0499	COBB, JOHN	2/20	3/11		REVISE BOARD OF BAR EXAMINERS	CONCUR 3-11	3/16
HB0502	BARNETT, JOE	3/01	3/08		REVISE BAIL FORFEITURE & REQUIRE RETURN OF BOND WITHIN 30 DAYS OF CONVICTION	CONCUR 3-8	3/08
HB0506	TASH, BILL	3/01	3/16		ALLOW NONPROFIT RAFFLE FOR LAND WORTH MORE THAN \$5,000	CONCUR 3-22	3/23

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 8, 1993, at 10:10 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 502
HB 409
HB 555
Executive Action: HB 502
HB 134
HB 255
HB 429
HB 582

HEARING ON HB 409

Opening Statement by Sponsor:

Representative Pavlovich, District 70, told the Committee HB 409 was requested by the Clerks of Court. HB 121 is an act requiring

DFS and allow the fees for everyone else. Mr. Harrington told the Committee the clerks would not have a problem exempting DFS.

Closing by Sponsor:

Representative Pavlovich closed.

HEARING ON HB 502

Opening Statement by Sponsor:

Representative Barnett, District 76, said HB 502 was introduced by request of the bondspeople in Montana. HB 502 brings about change in the bond fee structure as to when the bond should be released. Rep. Barnett said the new section is on page 1, lines 14 through 16, in which the bond must be released and returned to the surety within 30 days after the conviction. What has happened in the past, is if a defendant appealed his conviction, the bond was held through the entire appeal process. That tied up the money as long as two years on part of the bonds person. The bond that originally was issued had served its purpose of bringing the person to court, so the bond should be returned. If a new bond is required then they would have to get a new bond. On page 2, line 6 through 8, it states that the court would have to inform the surety within 10 working days that the defendant failed to make their court appearance. If the court failed to inform the surety within 10 days, the bond would become void and would have to be returned to the surety within 5 working days. Page 2, line 13 through 16, would give bonds people additional time to apprehend the person who jumped bail from 30 days to 90 days.

Proponents' Testimony:

Jack Young, Valley Bail Bonds, read from prepared testimony.
(Exhibit #2)

Scott Resvedt, Valley Bonding in Bozeman, supports HB 502.

Earl Rowe, Bail Bondsman in Missoula, supports HB 502.

Gene Senne, Anderson Bond in Missoula support HB 502.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Blaylock asked Mr. Young the cost of a bond. Mr. Young said the cost of a bond is set by the state. In the state they can charge up to 25%, but the standard is 10%.

Closing by Sponsor:

Rep. Barnett submitted a letter. (Exhibit #3)

EXECUTIVE ACTION ON HB 502

Motion/Vote:

Senator Towe moved HB 502 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 255

Discussion:

Valencia Lane explained the amendments. (Exhibit #4)

Motion:

Senator Towe moved amendment 1 and amendment 13.

Discussion:

Senator Franklin asked Ms. Lane about the burden of proof.

Vote:

The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved amendments 8 through 10 and amendments 23 and 24. The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved amendments 2 through 7, amendment 11, amendments 14 through 22, and amendments 25 through 27. The motion CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Towe moved HB 255 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 429

Discussion:

Valencia Lane told the Committee that Senator Doherty asked for a one word amendment. Page 2, line 24, following "weight of the" insert "dry".

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 8, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 502 (first reading copy -- blue), respectfully report that House Bill No. 502 be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

AW
LS Amd. Coord.
Sec. of Senate

Sen. Jauve
Senator Carrying Bill

521238SC.San

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 3-8-93

BILL NO. HB502

TESTIMONY

HB 502 Bail Bond Amendments
Introduced by Rep Joe Barnett
Hearing March 8, 1993

SPEAKER: Jack Young
Representing Valley Bail Bonds, Belgrade
and other Montana Bail Bond persons

WE SUPPORT HB 502 BAIL BOND AMENDMENTS FOR THE FOLLOWING REASONS:

- (1) PROPOSE: THE BOND BE EXONERATED AT TIME OF CONVICTION. By this time a Bond has been in force six months to a year. Once the defendant has made all appearances until conviction or plea of guilt, the Bond has performed its function and should be exonerated. If the defendant appeals, a new Bond may be written for the appeal process as it is a whole new undertaking. Under the present statutes, Judges may hold bonds through appeal, pre-sentence investigation which can take two years or more creating a great financial burden for the person holding the Bond.
- (2) PROPOSE: A CHANGE FROM 30 DAYS TO 90 DAYS FOR RECOVERY OF DEFENDANT: This would give the bond agent additional time to recover the defendant. Many defendants under Bond move around frequently. The more time the bond agent has to recover the defendant, the better the chances of returning defendant to custody; thus, justice is better served. Failure to return the defendant within specified time costs the Bond agent. The State of Idaho recently extended recovery time to ninety days.
- (3) PROPOSE: TEN WORKING DAY NOTIFICATION OF FORFEITURE OF BOND: This prompts courts to notify bonding agent immediately when a defendant fails to make a court appearance. Courts in the past have waited two months to send notice of non-appearance. This gives a "bail jumper" a costly head start on the bonding agent's attempt to apprehend.

BOND AGENTS ARE AN ESSENTIAL SPOKE IN THE WHEEL OF JUSTICE. THEY KEEP JAIL POPULATIONS DOWN TO A MANAGABLE LEVEL. THEY SAVE MONTANA TAXPAYERS CONSIDERABLE SUMS OF MONEY BY RETURNING DEFENDANTS TO THEIR FAMILIES AND JOBS RATHER THAN THE COST OF INCARCERATION AND MANY TIMES RESULTING MEDICAL COSTS TO BE BORNE BY THE TAXPAYERS. BOND AGENTS ALSO SAVE THE STATE TIME AND MONEY, LAW ENFORCEMENT INVESTIGATION TIME AND EXTRADITION COSTS BECAUSE OF THEIR PROVEN ABILITY TO LOCATE AND APPREHEND "BAIL JUMPERS".

TO: LEGISLATIVE COMMITTEE
FROM: BRADLEY B. AIPPERSPACH
DATE: February 10, 1993
RE: HOUSE BILL # 502

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 3-8-93
BILL NO. HB502

LEGISLATIVE COMMITTEE
RE: HOUSE BILL # 502

INTERDICTION

I Bradley B. Aipperspach have been a Bail bondsman for 3 years in the Missoula and Lake County areas. From 1987 through 1989, and I am currently returning to the bonding business.

ISSUE I. BOND TERMINATION AT TIME OF CONVICTION.

In Missoula about four or five years ago, William J. Henderson was charged with three felonies. Incest, accountability to incest, and felony bad checks. He was released on bail for all three charges. While waiting for the felony bad check case to come to court, he was tried and convicted of the INCEST, and ACCOUNTABILITY TO INCEST. The judge allowed him to remain free until the time of sentencing. Needless to say he never showed for the sentencing.

He was found and returned to Missoula the first of this year. He now faces two more felony charges in Missoula, he committed these felonies while free awaiting sentencing.

This is a prime reason why bail should be terminated at the time of conviction.

The bond in this matter was posted, when the person by law was to be presumed innocent. At the time of conviction the presumption of innocents no longer exists. **The assumption of risk, and desire to jump bail becomes much greater. Bonds should be terminated at the time of conviction.** If the courts need to release people before sentencing, a new bond should be posted, for the assumption of risk is much greater at this time.

ISSUE II. TIME OF FORFEITURE

Currently in Montana their is a 30 day time period to return people to the courts. Some people take more than 30 days to locate. Most people that bail out in Montana will return to the state, or have relatives that they will come to see.

Many states have a 6 month time period to return people to the courts. The change to **90 days** will greatly help in our search for people who have jumped bail.

The Common law has always been, when a bondsman return a person to the courts, **bond was exonerated.** The bondsman will spend time, money, effort, and risk of injury or life, to return these people to the courts.

Some where along the line Judges or J.P.s wanted the person to have a reason for missing court. I can see the reason for asking this, for normally the person is returned to jail. If they had medical reasons or Acts Of God, which kept them from court, the bond would be continued. Now it is the practice in many courts, that you must excuse the person from missing court or the bond is forfeited. The judges have gotten away from releasing the bond when you return a person to the court, they forfeit the bond.

I have meet a J.P. who does not care if you bring the person back to the court. He is going to forfeit the bond no matter what. If you spend time, money, effort and risk your life to return these people, **you should get the bond exonerated.**

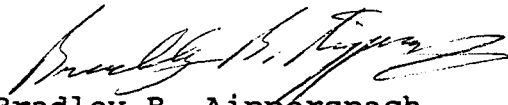
The only people that are more powerful than a Judge or J.P. is the legislators when they make the laws that the Judges or J.P.s must follow.

"BAIL SHALL BE EXONERATION WHEN A PERSON IS RETURNED TO COURT WITH IN 90 DAYS OF NOTICE OF FORFEITURE"

I strongly feel that this should be part on Montana's statutes on bail.

Thank you for taking the time to read and consider this letter. May God guide you in your long year of law making.

Sincerely



Bradley B. Aipperspach

HOUSE BILL NO. 502

INTRODUCED BY BARNETT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE RETURN OF A BAIL BOND TO THE SURETY WITHIN 30 DAYS AFTER A CONVICTION; PROVIDING THAT BAIL FORFEITURE BE DISCHARGED IF THE DEFENDANT APPEARS AND SATISFACTORILY EXCUSES AN ABSENCE WITHIN 90 DAYS AFTER THE FORFEITURE; AND AMENDING SECTION 46-9-503, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Return of bail bond after conviction. If a commercial surety bond is posted as bail and the defendant is convicted, the bond must be RELEASED AND returned to the surety within 30 days after the conviction. If the defendant appeals, the court may order that bail be provided during the appeal.

Section 2. Section 46-9-503, MCA, is amended to read:

"46-9-503. Violation of release condition -- forfeiture. (1) If a defendant violates a condition of release, including failure to appear, the prosecutor may make a written motion to the court for revocation of the order of release. A judge may issue a warrant for the arrest of a defendant charged with violating a condition of release. Upon arrest, the defendant must be brought before a

judge in accordance with 46-7-101.

(2) If a defendant fails to appear before a court as required and bail has been posted, the judge may declare the bail forfeited. Notice of the order of forfeiture must be mailed to the defendant and the defendant's sureties at their last-known address WITHIN 10 WORKING DAYS OR THE BOND BECOMES VOID AND MUST BE RELEASED AND RETURNED TO THE SURETY WITHIN 5 WORKING DAYS.

(3) If at any time within 30 days after the forfeiture the--defendant--or the defendant's sureties appear and satisfactorily excuse the defendant's failure to appear, the judge may direct the forfeiture to be discharged upon terms as may be just. If at any time within 90 days after the forfeiture the defendant appears and satisfactorily excuses the defendant's failure to appear, the judge shall direct the forfeiture to be discharged upon terms as may be just."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 46, chapter 9, part 1, and the provisions of Title 46 apply to [section 1].

-End-